

AMENDED IN SENATE JUNE 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1766

Introduced by Committee on Budget (Oropeza (Chair), Bermudez, Chan, Chu, Diaz, Dutra, Dymally, Goldberg, Hancock, Jackson, Liu, Montanez, Nakano, Pavley, Reyes, Simitian, and Wolk)

March 11, 2003

An act relating to the Budget Act of 2003 to add Title 17 (commencing with Section 99000) to the Government Code, and to add and repeal Sections 6051.5 and 6201.5 of the Revenue and Taxation Code, relating to state finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1766, as amended, Committee on Budget. Budget Act of 2003: *California Fiscal Recovery Financing Act.*

(1) *Existing law generally provides for the issuance of various types of public financing instruments.*

This bill would enact the California Fiscal Recovery Financing Act. It would create the California Fiscal Recovery Financing Authority, to consist of a specified membership, and authorize the authority to, among other things, issue bonds for the general purpose of funding the accumulated budget deficit, subject to specified conditions, and would require that the proceeds of the bonds, exclusive of specified amounts, be deposited in the General Fund for that purpose. The bill would specify that the bonds are to be repaid to the extent appropriations are made for that purpose by the Legislature from the Fiscal Recovery Fund, as described below, and would declare that the bonds are not a

debt or liability of the state for purposes of the California Constitution. It would also authorize the authority to bring an action to determine the validity of the bonds.

This bill would create the Fiscal Recovery Fund, designated as a special fund in the State Treasury, and require all revenues received pursuant to the state sales and use tax rate imposed by the bill to be deposited in the State Treasury to the credit of the fund. It would provide that, except for funds continuously appropriated to the authority in an amount not to exceed \$1,000,000 per fiscal year for administrative costs, amounts in the fund shall be available upon appropriation by the Legislature solely for the purposes of the bill. It would also appropriate, with certain exceptions, the entire amount of the sales and use tax revenues collected pursuant to the bill during the 2003–04 fiscal year on or prior to June 30, 2004, to the authority for purposes authorized by the bill for the Fiscal Recovery Fund.

(2) The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property.

This bill would, in addition to any other sales and use tax rates imposed by law, impose a state sales and use tax at the rate of 0.5% for a specified period.

(3) This bill would provide that it would become operative only if the Budget Act of 2003, as proposed by Assembly Bill 1769, is enacted and takes effect.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2003.~~

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature to enact~~
2 ~~statutory changes relating to the Budget Act of 2003.~~

3 SECTION 1. Title 17 (commencing with Section 99000) is
4 added to the Government Code, to read:

5

TITLE 17. THE CALIFORNIA FISCAL RECOVERY
FINANCING ACT

CHAPTER 1. GENERAL PROVISIONS

99000. *This title shall be known and may be cited as the California Fiscal Recovery Financing Act.*

99001. *It is the intent of the Legislature in enacting this title to provide for an efficient, equitable, and economical means of funding the accumulated budget deficit in order to preserve public education and critical health and safety programs.*

99002. *The Legislature finds and declares as follows:*

(a) *The bonds authorized to be issued by the authority under this title, and any ancillary obligations entered into with respect to the bonds, are not a debt or liability of the state subject to Section 1 of Article XVI of the California Constitution. The appropriation, if any, by the Legislature of special sales tax revenues to the California Fiscal Recovery Financing Authority created in Section 99004 pursuant to this title is not payment on a debt or liability of the state subject to Section 1 of Article XVI of the California Constitution.*

(b) *Special sales tax revenues deposited in the Fiscal Recovery Fund created in Section 99008 do not constitute General Fund revenues for the purposes of Section 8 of Article XVI of the California Constitution or any other provision of law.*

(c) *It is the intent of the Legislature that the moneys deposited in the Fiscal Recovery Fund shall not be available for any purpose other than repayment of bonds, payment of ancillary obligations, or payment of administrative expenses of the California Fiscal Recovery Financing Authority.*

(d) *It is the intent of the Legislature that the special sales tax revenues to be received pursuant to Sections 6051.5 and 6201.5 of the Revenue and Taxation Code, and which are to be deposited in the Fiscal Recovery Fund, shall be used solely to repay bonds related to the accumulated budget deficit identified as of June 30, 2003, and any administrative costs and ancillary obligations, in the shortest possible time consistent with favorable bond ratings and marketing considerations. Any legislation that results in an extension of the period during which the additional special sales taxes are imposed beyond the time necessary to repay the*

1 *accumulated budget deficit as of June 30, 2003, shall be deemed*
2 *to be an increase in taxes requiring a two-thirds vote of each house*
3 *of the Legislature.*

4 *99003. Unless the context requires otherwise, the following*
5 *definitions shall govern the construction of this title:*

6 (a) *“Accumulated budget deficit” means the estimated*
7 *negative balance, excluding any projected deficit financing*
8 *proceeds, of the Special Fund for Economic Uncertainties as of*
9 *June 30, 2003, as certified by the Director of Finance prior to the*
10 *issuance of any bonds pursuant to this title.*

11 (b) *“Ancillary obligation” means the obligation of the*
12 *authority under any of the following, entered into by the authority*
13 *in connection with any bonds issued under this title:*

14 (1) *A credit enhancement or liquidity agreement, including any*
15 *credit enhancement or liquidity agreement in the form of bond*
16 *insurance, letter of credit, standby bond purchase agreement,*
17 *reimbursement agreement, liquidity facility, or other similar*
18 *arrangement.*

19 (2) *A remarketing agreement.*

20 (3) *An auction agent agreement.*

21 (4) *A broker-dealer agreement or other agreement relating to*
22 *the marketing of the bonds.*

23 (5) *An interest rate or other type of swap or hedging contract.*

24 (6) *An investment agreement, forward purchase agreement, or*
25 *similar structured investment contract.*

26 (c) *“Authority” means the California Fiscal Recovery*
27 *Financing Authority created by Section 99004.*

28 (d) *“Available revenues” means the special sales tax revenues*
29 *appropriated pursuant to this title by the Legislature to pay*
30 *principal, interest, and any related costs on the bonds issued*
31 *pursuant to this title or to pay ancillary obligations, together with*
32 *any reserves or other amounts that have been deposited with the*
33 *trustee to pay the bonds or to pay ancillary obligations and any*
34 *investment earnings on any of those funds. Notwithstanding any*
35 *other provision of law, the Legislature shall not be obligated to*
36 *appropriate or otherwise make available any other funds to pay the*
37 *bonds or to pay ancillary obligations.*

38 (e) *“Board” means the State Board of Equalization.*

(f) “Bonds” means any bonds, notes, bond anticipation notes, interim certificates, debentures, or similar instruments issued by the authority pursuant to this title.

(g) “Fiscal Recovery Fund” means the special fund created by Section 99008.

(h) “Indenture” means any resolution, trust agreement, indenture, certificate, or other instrument authorizing the issuance of bonds by the authority pursuant to this title, and providing for their security and repayment.

(i) “Special sales tax revenues” means the proceeds of that portion of the sales and use tax imposed by the state pursuant to Section 6051.5 or 6201.5 of the Revenue and Taxation Code.

(j) “Trustee” means a bank or trust company within or without the state acting as trustee for any issue of bonds under this title and, if there is more than one issue of bonds, shall refer to the trustee for each issue of bonds respectively. In the event there are cotrustees for an issue of bonds, “trustee” shall refer to those cotrustees collectively.

CHAPTER 2. CALIFORNIA FISCAL RECOVERY FINANCING AUTHORITY

99004. (a) The California Fiscal Recovery Financing Authority is hereby created in state government solely for the purpose of the issuance and sale of the bonds and ancillary obligations authorized by this title and the performance of any necessary obligations related thereto. The authority is a public instrumentality of the state, and the exercise by the authority of the powers granted in this title is deemed and held to be the performance of an essential public function.

(b) (1) The authority consists of all of the following members:

(A) The Governor or his or her designee.

(B) The Director of Finance.

(C) The Treasurer.

(D) The Controller.

(E) The Secretary of Business, Transportation and Housing.

(F) The Director of General Services.

(G) The Director of Transportation.

(2) Notwithstanding Section 7.5 or any other provision of law, any member may designate a deputy to act as that member in his

1 or her place and stead for all purposes, as though the member were
2 personally present.

3 (3) The Legislature finds and declares that each member of the
4 authority has previously acted as a member of a similar state
5 agency or authority that issues revenue bonds and a finance
6 committee that issues general obligation bonds, and has duties in
7 relation to the payment of the accumulated budget deficit.

8 (c) A majority of the members of the authority shall constitute
9 a quorum of the authority and may act for the authority.

10 (d) The Director of Finance shall serve as chairperson of the
11 authority.

12 (e) The Attorney General shall be the legal counsel for the
13 authority. With the approval of the Attorney General, the authority
14 may employ any legal counsel that in its judgment is necessary or
15 advisable to enable it to carry out its duties and functions,
16 including, but not limited to, the employment of any bond counsel
17 deemed advisable in connection with the issuance and sale of
18 bonds.

19 (f) A member, officer, or agent of the authority shall not be
20 subject to personal liability on any bonds or ancillary obligations
21 or other obligations issued or entered into under this title or for any
22 acts or omissions of members, officers, or agents in carrying out
23 the powers and duties conferred by this title.

24 (g) The members of the authority shall serve without
25 compensation.

26 99005. The authority may do all of the following:

27 (a) Sue and be sued.

28 (b) Issue taxable or tax-exempt bonds for the purpose of
29 funding the accumulated budget deficit and paying costs related
30 thereto, including, but not limited to, reserves, capitalized interest,
31 costs of obtaining or entering into any ancillary obligations, and
32 costs of issuance, or for the purpose of refunding any bonds
33 previously issued pursuant to this title and paying the costs related
34 thereto.

35 (c) Enter into ancillary obligations and other contracts deemed
36 necessary or appropriate by the authority in connection with any
37 bonds issued under this title.

38 (d) Establish the terms and conditions for the financing
39 program undertaken pursuant to this title.

1 (e) Employ or contract for any services, including, but not
2 limited to, consulting services and legal services authorized
3 pursuant to subdivision (e) of Section 99004, or engage other
4 agents or advisers in connection with the financing program, as
5 deemed necessary by the authority.

6 (f) In addition to all other powers specifically granted in this
7 title, do all things necessary or convenient, including the
8 delegation of necessary duties to the Director of Finance, as
9 chairperson, and to the Treasurer, as agent for sale of the bonds,
10 to carry out the powers and purposes of this title.

11 99006. (a) The Director of Finance shall, as chairperson of
12 the authority, use his or her best efforts to have included, in the
13 annual Governor's Budget and in the annual Budget Act or
14 another act separate from the annual Budget Act, an appropriation
15 for each fiscal year of the special sales tax revenues received in that
16 fiscal year for the purposes of this title. The director shall notify
17 the trustee and the Treasurer each year of his or her action
18 pursuant to this subdivision, including providing copies of the
19 Governor's Budget and either the annual Budget Act or another
20 act making an appropriation of the special sales tax revenue.

21 (b) The Director of Finance, as chairperson of the authority,
22 shall notify the Treasurer, the trustee, and the board upon the
23 earliest to occur of the following events:

24 (1) All bonds and ancillary obligations outstanding have been
25 paid or retired.

26 (2) Payment of the principal of and interest on all bonds has
27 been irrevocably provided for pursuant to the indenture and no
28 bonds are deemed "outstanding" pursuant to the indenture.

29 (3) The Fiscal Recovery Fund holds sufficient funds to pay the
30 principal of, and interest to final maturity on, all bonds
31 outstanding, if those funds were appropriated for that purpose by
32 the Legislature.

33 99007. Section 10295 of, and Article 4 (commencing with
34 Section 10335) of Chapter 2 of Part 2 of Division 2 of, the Public
35 Contract Code do not apply to agreements entered into by the
36 authority or any individual to whom the authority delegates
37 contracting authority in connection with the sale of bonds or other
38 matters authorized under this title.

39

CHAPTER 3. FISCAL RECOVERY FUND

99008. (a) *The Fiscal Recovery Fund is hereby created as a special fund in the State Treasury.*

(b) *Moneys in the Fiscal Recovery Fund shall be invested in the Surplus Money Investment Fund, and any income from that investment shall be credited to the Fiscal Recovery Fund.*

(c) *Except for funds appropriated pursuant to subdivision (d), amounts in the Fiscal Recovery Fund, together with earnings thereon, shall be available solely for the purposes set forth in subdivision (c) of Section 99002 upon appropriation by the Legislature in each fiscal year. Upon an appropriation, if any, by the Legislature in a fiscal year, for the balance of that fiscal year all appropriated moneys then held or to be received in the Fiscal Recovery Fund shall constitute available revenues and shall be disbursed to the trustee not less frequently than once per month. Available revenues shall belong to the authority, absolutely and unconditionally, and without any right of setoff, recoupment, or counterclaim.*

(d) *Notwithstanding Section 13340, an amount not to exceed one million dollars (\$1,000,000) per fiscal year is hereby continuously appropriated from the Fiscal Recovery Fund to the authority, without regard to fiscal years, sufficient to pay administrative costs as approved by the Director of Finance.*

99009. *Moneys held in the Fiscal Recovery Fund shall not be borrowable by, or available for transfer to, the General Fund pursuant to Section 16310 or any similar authority, or the General Cash Revolving Fund pursuant to Section 16381 or any similar authority.*

99010. *The Fiscal Recovery Fund may not be terminated until the Director of Finance provides the notification described in subdivision (b) of Section 99006. After the Director of Finance has provided that notification, and the board has ceased to collect the special sales tax revenues, any amounts remaining in the fund shall be disbursed as provided in an appropriation bill enacted by the Legislature, including, but not limited to, providing for a rebate to taxpayers of the excess special sales tax revenues collected.*

CHAPTER 4. BOND PROVISIONS

99011. (a) The authority, at any time or from time to time, upon the request of the Director of Finance, may issue bonds for the purposes set forth in subdivision (b) of Section 99005. Each issue of bonds may be in an amount sufficient to provide for the funding of a portion of the accumulated budget deficit, for funding any necessary reserves and capitalized interest, for obtaining or entering into any ancillary obligations deemed necessary or desirable by the authority, for paying costs of issuance of the bonds as approved by the Director of Finance, or for refunding any bonds previously issued by the authority.

(b) Bonds issued pursuant to this title, and any ancillary obligations entered into with respect to those bonds, are not a debt or liability of the state or of any political subdivision thereof or a pledge of the full faith and credit of the state or of any political subdivision thereof, and shall be payable by the authority solely from available revenues. Notwithstanding any other provision of law, the Legislature is not obligated to appropriate special sales tax revenues or any other funds or otherwise make any other funds available to pay debt service on the bonds or to pay ancillary obligations issued or entered into pursuant this title. All bonds shall contain on the face thereof a statement to the effect that the bonds are a special obligation of the authority payable solely from available revenues, including moneys deposited in the Fiscal Recovery Fund, if and to the extent appropriated in each fiscal year for that purpose by the Legislature; that the Legislature is not obligated to make such an appropriation or to provide any other funds for the repayment of the bonds; that neither the state nor any political subdivision thereof, except the authority to the extent provided in this subdivision, is obligated to pay the bonds or the interest thereon; that neither the full faith and credit nor the taxing power of the state or any political subdivision thereof is pledged to the payment of the principal of or interest on the bonds; and that the authority has no taxing power.

99012. (a) The indenture may provide any or all of the following for the bonds:

(1) The form of the bonds, which may be issued as serial bonds, term bonds, or installment bonds, or any combination thereof.

(2) The date or dates to be borne by the bonds.

1 (3) *The time or times of maturity of the bonds.*

2 (4) *The interest, fixed or variable, to be borne by the bonds.*

3 (5) *The time or times that the bonds shall be payable.*

4 (6) *The denominations, form, and registration privileges of the*
5 *bonds.*

6 (7) *The manner of execution of the bonds.*

7 (8) *The place or places the bonds are payable, which may*
8 *include one or more paying agents within or outside of the state.*

9 (9) *The terms of redemption, tender, or purchase of the bonds.*

10 (10) *The establishment of funds and accounts to be held by a*
11 *trustee to provide for payment or security for the bonds or ancillary*
12 *obligations or related costs.*

13 (11) *Any other terms and conditions deemed necessary by the*
14 *authority.*

15 (b) *Pursuant to Section 5702, the Treasurer shall serve as agent*
16 *for the offer and sale of the bonds. The bonds may be sold at either*
17 *a competitive or negotiated sale, at the time or times, at a premium*
18 *or a discount, or with neither, and with all other terms and*
19 *conditions that the Treasurer, in his or her capacity as agent for*
20 *sale of state bonds, shall determine.*

21 99013. *The proceeds of the bonds, exclusive of amounts*
22 *required to be held by the authority for reserves, capitalized*
23 *interest, or costs of issuance and ancillary obligations, as*
24 *authorized by subdivision (a) of Section 99011, shall be deposited*
25 *in the General Fund to fund all or a portion of the accumulated*
26 *budget deficit, or shall be used to refund bonds previously issued*
27 *pursuant to this title.*

28 99014. (a) *At the discretion of the authority, any bonds issued*
29 *pursuant to this title may be secured by an indenture by and*
30 *between the authority and a trustee. The indenture may contain*
31 *any provision to protect and enforce the rights and remedies of the*
32 *bond owners that is reasonable and proper and not in violation of*
33 *law. The indenture may set forth the rights and remedies of the*
34 *bond owners and of the trustee or trustees and may restrict the*
35 *individual right of action by bond owners.*

36 (b) *Any trust funds or accounts created by the indenture may be*
37 *held outside the State Treasury. Available revenues deposited in a*
38 *trust fund or account held outside the State Treasury are hereby*
39 *pledged to secure the bonds and ancillary obligations, subject to*
40 *application for the purposes and pursuant to the terms set forth in*

1 *the indenture. The available revenues so pledged shall*
2 *immediately be subject to the lien of the pledge without filing,*
3 *physical delivery, or other act, and the lien of the pledge shall be*
4 *superior to all other claims and liens of any kind whatsoever.*

5 *(c) In addition to the requirements of subdivisions (a) and (b),*
6 *any indenture described in this section may contain any other*
7 *provisions the authority may deem reasonable and proper for the*
8 *security of the bond owners.*

9 99015. *(a) The authority may provide for the issuance of*
10 *bonds any portion of which is to be used for the purpose of*
11 *refunding outstanding bonds, including the payment of the*
12 *principal thereof and interest and redemption premiums, if any,*
13 *thereon. The proceeds of bonds issued to refund any outstanding*
14 *bonds may be applied to the retirement of those outstanding bonds*
15 *at maturity, or the redemption, on any redemption date, or*
16 *purchase of the outstanding bonds prior to maturity, upon the*
17 *terms and subject to the conditions the authority shall deem*
18 *advisable.*

19 *(b) Notwithstanding any other provision of this title, the*
20 *authority may not issue refunding bonds with a final maturity date*
21 *later than the final maturity date of the series of bonds being*
22 *refunded, unless the Legislature has adopted legislation by a*
23 *two-thirds vote of each house, extending the imposition of a special*
24 *sales tax or taxes to provide for payment of the refunding bonds.*

25 99016. *The exercise of the powers granted by this title shall be*
26 *in all respects for the benefit of the people of the state. Any and all*
27 *bonds issued by the authority, their transfer, and the income*
28 *therefrom, shall at all times be free from taxation of every kind by*
29 *the state and by all political subdivisions of the state.*

30
31 CHAPTER 5. MISCELLANEOUS PROVISIONS
32

33 99017. *This title, being necessary for the health, welfare, and*
34 *safety of the people of the state, shall be liberally construed to*
35 *effect its purposes.*

36 99018. *This title shall be deemed to provide a complete,*
37 *additional, and alternative method for doing the things authorized*
38 *in its provisions, and shall be regarded as supplemental and*
39 *additional to the powers conferred by other laws. The sale and*
40 *issuance of bonds, the application of proceeds to the funding of the*

1 accumulated budget deficit, and the refunding of prior bonds and
2 the entering into of any ancillary obligation under this title, are not
3 required to comply with the requirements of any other state or local
4 law applicable to the issuance of bonds or ancillary obligations.
5 The purposes of this title may be effectuated and bonds are
6 authorized to be issued for any of the purposes of this title,
7 notwithstanding that any other state or local law may provide for
8 those purposes or for the issuance of bonds for the same or similar
9 purposes, and without regard to the requirements, restrictions,
10 limitations, or other provisions contained in any other state or
11 local law.

12 99019. Bonds issued pursuant to this title are a legal
13 investment for any state special fund or trust fund, notwithstanding
14 any provision of state or local law limiting the investments that
15 may be made by the fund. The bonds shall be legal investments in
16 which all public officers and public bodies of the state and its
17 political subdivisions, all municipalities and municipal
18 subdivisions, all insurance companies and associations and other
19 persons carrying on an insurance business, all banks, bankers,
20 banking institutions, including savings and loan associations,
21 building and loan associations, trust companies, savings banks
22 and savings associations, investment companies, and other
23 persons carrying on banking business, all administrators,
24 guardians, executors, trustees, and other fiduciaries, and all
25 persons authorized to invest in bonds or other obligation of the
26 state, may properly and legally invest funds, including capital, in
27 their control or belonging to them. The bonds may be used by any
28 such private financial institution, person, or association as
29 security for public officers and bodies of the state or any agency
30 or political subdivision of the state and all municipalities and
31 public corporations for any purpose for which the deposit of bonds
32 or other obligations of the state is authorized by law, including
33 deposits to secure public funds.

34 99020. The authority may bring an action to determine the
35 validity of any bonds to be issued, or ancillary obligations and
36 other contracts to be entered into, under this title pursuant to
37 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
38 the Code of Civil Procedure. For the purposes of Section 860 of the
39 Code of Civil Procedure, any action initiated pursuant to this
40 section shall be brought in the Superior Court in the County of



Sacramento. Any action brought to enforce any provision of this title shall be brought in the Superior Court in the County of Sacramento and shall have priority over civil matters not themselves having priority.

SEC. 2. Section 6051.5 is added to the Revenue and Taxation Code, to read:

6051.5. (a) In addition to the tax imposed by Section 6051 or any other provision of this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of one-half of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this state.

(b) All revenues, net of refunds, received pursuant to this section shall be deposited in the State Treasury to the credit of the Fiscal Recovery Fund, as created by Section 99008 of the Government Code.

(c) This section shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section.

(d) This section shall cease to be operative on the first day of the first calendar quarter commencing more than 90 days following a notification to the board by the Director of Finance pursuant to subdivision (b) of Section 99006 of the Government Code, and as of that date is repealed.

SEC. 3. Section 6201.5 is added to the Revenue and Taxation Code, to read:

6201.5. (a) In addition to the tax imposed by Section 6201 or any other provision of this part, an excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer at the rate of one-half of 1 percent of the sales price of the property.

(b) All revenues, net of refunds, received pursuant to this section shall be deposited in the State Treasury to the credit of the Fiscal Recovery Fund, as created by Section 99008 of the Government Code.

(c) This section shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section.

(d) This section shall cease to be operative on the first day of the first calendar quarter commencing more than 90 days

1 following a notification to the board by the Director of Finance
2 pursuant to subdivision (b) of Section 99006 of the Government
3 Code, and as of that date is repealed.

4 SEC. 4. With the exception of any amount necessary for
5 administrative costs incurred pursuant to subdivision (d) of
6 Section 99008 of the Government Code, as added by Section 1 of
7 this act, the entire amount of special sales tax revenues collected
8 pursuant to Section 6051.5 or 6201.5 of the Revenue and Taxation
9 Code, as added by Sections 2 and 3 of this act, respectively, during
10 the 2003–04 fiscal year on or prior to June 30, 2004, is hereby
11 appropriated from the Fiscal Recovery Fund created in Section
12 99008 of the Government Code, without regard to fiscal years, to
13 the California Fiscal Recovery Financing Authority created in
14 Section 99004 of the Government Code, as added by Section 1 of
15 this act, for purposes authorized by subdivision (c) of Section
16 99002 of the Government Code, as added by Section 1 of this act.

17 SEC. 5. The provisions of this act are severable. If any
18 provision of this act or its application is held invalid, that
19 invalidity shall not affect other provisions or applications that can
20 be given effect without the invalid provision or application.

21 SEC. 6. This act shall become operative only if the Budget Act
22 of 2003, as proposed by Assembly Bill 1769 of the 2003–04
23 Regular Session, is enacted and takes effect.

24 SEC. 7. This act is an urgency statute necessary for the
25 immediate preservation of the public peace, health, or safety
26 within the meaning of Article IV of the Constitution and shall go
27 into immediate effect. The facts constituting the necessity are:

28 In order to enable the state to satisfy the accumulated budget
29 deficit as part of a comprehensive budget solution for the 2003–04
30 fiscal year at the earliest possible time, it is necessary that this act
31 take effect immediately.